

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Amendment of Parts 73 and 74 of the)	
Commission's Rules to Establish Rules for)	MB Docket No. 03-185
Digital Low Power Television, Television)	
Translator, and Television Booster Stations)	
and to Amend Rules for Digital Class A)	
Television Stations)	

**REPLY COMMENTS OF
VENTURE TECHNOLOGIES GROUP, LLC**

Venture Technologies Group, LLC ("VTG") hereby submits the following reply comments in this proceeding. VTG encourages the Commission to carefully consider the comments of the television broadcasters in this proceeding. LPTV broadcasters hold a special place in the hierarchy of spectrum allotment – LPTV stations operate as a hyper-local service and always bear the risk of being displaced by the operation of a full-power station. With this unique perspective, LPTV operators are very adroit at knowing what is and is not possible for their industry. It is simply unrealistic to expect LPTV stations to make the investment to build a digital facility when the Commission is undertaking to redefine the spectrum landscape for full power stations. Only once the Commission concludes its reallocation and repacking plans and determines where there will be spectrum for secondary services should it adopt a digital transition deadline for LPTV stations.

VTG also wishes to take the opportunity to respond directly to the comments of National Public Radio, Inc., ("NPR"). In its opening comments, NPR hurled specious and, frankly, misleading accusations against VTG and other low power television

(“LPTV”) broadcasters that operate on TV channel 6. To address and refute NPR’s baseless allegations, VTG hereby submits the following reply comments.

I. REPLY TO NPR’S COMMENTS

NPR advances two false claims regarding LPTV broadcasters’ use of TV channel 6. First, it alleges that LPTV broadcasters “utilizing the television Channel 6 spectrum to broadcast primarily an FM radio service ... are violating the Commission's technical rules and causing harmful interference.”¹ Second, it claims that “[t]he Commission’s technical rules governing LPTV were designed for reception of the service by analog television receivers, not to permit an audio service comparable to those offered by FM radio stations and aimed for reception by FM radio receivers” and that, as a result, “some LPTV stations are not even operating visual signals, in clear violation of the Commission's Rules”²

A. Channel 6 LPTV Stations Do Not Cause Harmful Interference to NCE FM Stations.

VTG asserts that channel 6 LPTV stations operating within their authorized parameters do not cause harmful interference. VTG operates several channel 6 LPTV stations and has never received a single valid complaint from the public. Moreover, NPR did not provide the Commission a single verifiable example of a channel 6 LPTV station interfering with anyone.

The closest NPR came to supporting its baseless allegation was in footnote 13 of its comments, where it cited a brief comment in an undisclosed proceeding to support its

¹ Comments of National Public Radio, Inc. in MB Docket No. 03-185 dated December 17, 2010, at 3. (“NPR Comments”).

² *Id.* at 4.

“understanding” that an unnamed “LPTV Channel 6 station is causing interference to the reception of Colorado Public Radio.”³ This brief comment, which is attached hereto, in its entirety, as Exhibit A, does not support NPR’s assertion, as the commenter does not identify the source of the harmful interference and never claims that an LPTV station was a possible source. Instead, she blamed the interference on “another station,” which could easily mean another FM radio station or even a pirate radio station. We cannot know whether the commenter’s radio was accurately tuned or functioning properly, and we cannot tell whether the commenter is a reliable source of information. As such, NPR cannot posit an “understanding” that an LPTV broadcaster is at fault; rather it can only make a reckless *assumption* that is the case.

If channel 6 LPTV stations were causing the sort of interference that NPR alleges, then surely NPR’s engineers could measure and document the alleged interference. Yet, they have not. Similarly, if the harmful interference actually existed, then NPR would have been able to provide the Commission with better evidence of it than a single, brief comment in an unspecified FCC proceeding. But, it could not.

B. NPR Fails to Support its Allegation that Some Channel 6 LPTV Stations “tend” Not to Broadcast Visual Signals.

NPR’s second allegation is that some licensees of analog channel 6 LPTV stations “are violating the Commission’s technical rules” by “not even operating visual signals.”⁴ Once again, NPR’s allegations are completely unfounded and devoid of factual support. As a general matter, we agree that an LPTV station would violate the Commission’s rules if it did not operate a visual signal. However, once again NPR failed to provide even a single example of an LPTV station failing to transmit a visual signal.

³ NPR Comments, n. 13.

⁴ *Id* at 4.

Instead of providing concrete evidence, NPR carefully alleges that channel 6 LPTV stations operate as “ersatz FM radio stations [that] *tend* to circumvent” the Commission’s rules.⁵ NPR’s comments are carefully written, so why would the authors use an awkward phrase like “tend to circumvent” if they really meant to say “violate”? It is as if NPR is claiming that certain LPTV broadcasters are “almost” violating the Commission’s rules. The Commission’s technical rules are clear, and a broadcaster either complies with or violates them. There is no middle ground; there is no “almost.” A broadcaster cannot “almost” violate the Commission’s rules any more than a woman can be almost pregnant.

In a further attempt to buttress its fundamentally weak claim, NPR complains that “[t]he Commission’s technical rules governing LPTV were designed for reception of the service by analog television receivers, not to permit an audio service comparable to those offered by FM radio stations and aimed for reception by FM radio receivers.”⁶ Once again: analog channel 6 LPTV stations—even the ones that market themselves to radio audiences—must transmit a visual signal. As such, these stations are perfectly viewable on analog television sets and they do not intrude on any part of the FM radio band. They are *bona fide* television stations.

Through obfuscation, NPR attempts to mislead readers to conclude that channel 6 LPTV stations do not operate in compliance with the FCC’s rules (when, in fact, they do). In the absence of any concrete evidence, the Commission should not be swayed by NPR’s spurious claims about LPTV broadcasters’ supposed “tendencies” to operate in a manner that violates the Commission’s rules.

⁵ *Id.*

⁶ *Id.*

There is nothing unseemly about a television station that broadcasts audio services. The Virtual Channel Table in the ATSC digital television standard makes an explicit provision for “audio-only” services to be broadcast via ATSC digital television. By adopting the ATSC digital television standard, the Commission has demonstrated that it condones the broadcast of audio services in the television band.⁷

We respectfully submit that, instead of shackling LPTV broadcasters to a single business model that is predicated on digital operations, the Commission should permit LPTV broadcasters to make their own assessments of the programming and mode of operations that will best serve audiences that are underserved by other television and radio broadcasters. As noted by other commenters in this proceeding, niche audiences clamor for the services that channel 6 LPTV stations provide.⁸ The Commission should foster, not squelch, LPTV broadcasters’ efforts to serve these audiences.

By claiming that channel 6 LPTV stations “do not serve the public interest” and provide programming that is “far from unique,”⁹ NPR not only displays great arrogance and hubris, it also seems to have forgotten that its middle name is “Public.” NPR traditionally might serve more affluent, liberal audiences, however, those are not the only audiences deserving of programming targeted to their interests and tastes. In Chicago, WBEZ, a NPR affiliate, operates 91.5, a powerhouse Class B FM that in the September 2010 ratings period garnered 570,000 member to its cumulative audience. However, during the same period, WLFM-LP, which serves a primarily African-American audience

⁷ ATSC Standard A/65: Program and System Information Protocol for Terrestrial Broadcast and Cable (PSIP); Pg. 17. Available online: http://www.atsc.org/cms/standards/a_65-2009.pdf

⁸ See, e.g., Comments of WLFM, LLC, MB Docket No. 03-185 (Dec. 16, 2010).

⁹ NPR Comments at 3-4.

on channel 6, garnered a cumulative audience of 608,100 persons.¹⁰ Clearly, the audience tuning into WLFM-LP has found “unique” programming not available elsewhere in Chicago.

While NPR stations may not cater to the same audiences as channel 6 LPTV stations, that does not diminish LPTV audiences’ need for relevant and responsive programming that can be received on a variety of devices. Absent verifiable interference to NCE FM stations, LPTV broadcasters’ programming and technical decisions are, quite simply, none of NPR’s business. The institutional elitism of NPR must end.

VTG submits that the public, not NPR, is the best judge of what is in the “public interest.” To support this position, VTG needs only point to the millions of people who are tuning to channel 6 to watch or to listen to the programming. Forcing channel 6 LPTV stations to abandon these audiences through an unwanted digital transition would harm these audiences and would not benefit the public interest. Accordingly, VTG urges the Commission to continue to provide channel 6 LPTV broadcasters with the regulatory flexibility to determine how best to serve their audiences.

II. LPTV BROADCASTERS KNOW THE NEEDS OF THEIR VIEWERS AND THAT JUDGMENT MUST BE RESPECTED BY THE COMMISSION

A. BROADCASTERS ARE IN AGREEMENT THAT SETTING A DIGITAL TRANSITION DATE IS PREMATURE

The comments of broadcasters must be given greater weight in this proceeding than the presumptuous and self-serving comments of equipment manufacturers, their trade organization and lobbyists, not to mention, National Public Radio – a radio broadcaster – with no rights within the spectrum allocated to television broadcasters. LPTV stations

¹⁰ Chicago, September 2010 Arbitron Monthly PPM 6+ Mon-Sun, 6a-12mid

are by definition a local service, they serve a small and discrete audience. In order to be viable, LPTV broadcasters must know and serve the needs and desires of their audience. Furthermore, LPTV broadcasters in this proceeding have cited the very real possibility that there may not be enough spectrum left for LPTV operations once the proposals made in the Broadband Plan are implemented. These are valid considerations that deserve the thoughtful and respectful consideration of FCC staff.

As is amply demonstrated by the comments filed by broadcasters in this proceeding, there is no valid reason to set a hard digital transition date for LPTV stations.¹¹ Those broadcasters that serve audiences that desire a digital signal will convert to digital operations should funds allow. However, a significant number of LPTV stations purposefully serve a demographic that desires access to an over-the-air analog signal. The needs of these viewers should not be disregarded in this proceeding.

B. AMENDMENTS TO EXISTING TECHNICAL RULES WILL FACILITATE DIGITAL TRANSITION APPLICATIONS

Many of the amendments proposed to the technical rules will greatly facilitate the transition of those LPTV stations that desire to operate in digital. VTG encourages the Commission to adopt the use of full mask filters for LPTV stations immediately as there were no objections to this rule modification. Further, the Commission should clean up the LPTV application database by dismissing applications for new stations that have yet to be granted a construction permit.

The commenters universally acknowledge the challenges of operating a digital facility on VHF spectrum. VTG encourages the Commission to adopt the proposal to

¹¹ See comments of: Renard Communications Corp., Trinity Christian Center of Santa Ana, Inc., Low Power Television Licensee Group, WLFM, LLC, Venture Technologies Group, LLC, Island Broadcasting Company and other broadcasters.

extend the FCC's displacement rules to those LPTV stations operating on low VHF channels and to adopt higher power levels for those stations that operate on VHF channels. Finally, as argued by VTG in its comments, there is no need to amend the definition of a minor change. As the old saying goes, "don't fix what isn't broken." This rule is not broken and should not be changed.

Respectfully submitted,

VENTURE TECHNOLOGIES GROUP, LLC

By:

A handwritten signature in black ink, consisting of a large 'P' followed by a series of loops and a final flourish, written over a horizontal line.

Paul Koplin, Chief Executive Officer
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Dated: January 18, 2011

EXHIBIT A

On Sunday morning, 24 October, CPR.ORG in Denver (88.1) was regularly interrupted by another station that sounded like a talk show and advertising of some casino ("great specials").

This has continued since approximately 10:00. Isn't this a federal offense? Aren't there technical and legal provisions in place to prevent and prohibit such intrusions? Are our airwaves no longer secure or have cutbacks in spending and deregulation disrupted even our radio enjoyment?

Therese

From: <http://fjallfoss.fcc.gov/ecfs/document/view?id=7020918505>